

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:20-cr-78-RJC-DSC-1

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
)
vs.)
)
)
MICHAEL MOORE,)
)
)
Defendant.)
)

ORDER

THIS MATTER is before the Court on Defendant's pro se "Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2255" [Doc. 71] that has been construed as a § 2255 Motion to Vacate.

The Defendant was charged in a fraudulent social media scheme with one count of wire fraud in violation of 18 U.S.C. § 1343, and two counts of making a false statement to a United States agency violation of 18 U.S.C. § 1001. [Doc. 3]. A jury found the Defendant guilty as charged and the Court sentenced him to a total of 120 months' imprisonment followed by one year of supervised release. [Doc. 47]. The Fourth Circuit Court of Appeals affirmed. United States v. Moore, 2023 WL 4701255 (4th Cir. July 24, 2023).

In the instant "Petition" was filed on October 21, 2024.¹ [Doc. 71]. The Defendant raises numerous claims and attaching documents including an "Affidavit" in which he seeks "the

¹ The docketing date has been used here because the Defendant does not certify the date upon which he placed his Petition in the prison's mail system. Houston v. Lack, 487 U.S. 266, 276 (1988) (establishing the prisoner mailbox rule); Rule 3(d), 28 U.S.C. foll. § 2255 (addressing inmate filings).

protections of Haines v Kerner to help prevent any further miscarriage of justice.” [Docs. 71, 71-1, 71-2].

A Motion to Vacate must be on, or substantially follow, the prescribed form and: (1) specify all the grounds for relief available to the moving party; (2) state the facts supporting each ground; (3) state the relief requested; (4) be printed, typewritten, or legibly handwritten; and (5) be signed under penalty of perjury. Rule 2(b)-(c), 28 U.S.C. foll. § 2255; see 28 U.S.C.A. § 1746 (addressing verification).

The Defendant’s Petition is not on and does not substantially follow the § 2255 form, the claims are repetitive and sometimes nonsensical, the Defendant does not specify the relief he is seeking, and the Petition is not signed under penalty of perjury.² The Defendant will be required to file a superseding Amended Motion to Vacate to correct these deficiencies.

The Defendant shall have **thirty (30) days** in which to file a superseding Amended Motion to Vacate that is verified, concisely states the claims and the supporting facts, and identifies the relief that the Defendant is requesting. See Young v. City of Mount Ranier, 238 F.3d 567, 573 (4th Cir. 2001) (discussing superseding amendments); Hill v. Braxton, 277 F.3d 701 (4th Cir. 2002) (a petitioner should be offered an opportunity to respond before the case is dismissed). The Amended Motion to Vacate will be subject to all applicable timeliness and procedural requirements. See generally 28 U.S.C. § 2255; Mayle v. Felix, 545 U.S. 644 (2005) (discussing relation back). If the Defendant chooses to file a supporting memorandum with the Amended Motion to Vacate, the memorandum must not exceed **25 pages** unless the Defendant receives prior leave of Court to

² The “Petition” is signed by the Defendant but it is not verified. [Doc. 71 at 26 (signed “respectfully submitted”)]. The attached “Affidavit” contains the Defendant’s printed name, a witness’s signature, and inadequate verification language. [Doc. 71-2 at 1- 2 (stating *inter alia* “I Michael Moore swear under oath and under the pains and penitry of perjury that I have read over the motion to vacate and set aside my sentence and conviction to the very best of my ability”) (errors uncorrected)].

exceed that limit. Failure to timely comply with this Order will result in the dismissal of the Motion to Vacate without further notice.

IT IS, THEREFORE, ORDERED that the Defendant shall file a superseding Amended § 2255 Motion to Vacate within **thirty (30) days** of this Order. If Defendant fails to do so, the Motion to Vacate will be dismissed without further notice.

Any supporting memorandum filed with the Amended Motion to Vacate may not exceed **twenty five (25) pages** absent prior leave of Court.

The Clerk is respectfully instructed to mail Defendant a blank § 2255 form and a copy of this Order.

IT IS SO ORDERED.

Signed: October 23, 2024



Robert J. Conrad, Jr.
United States District Judge